

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Joseph Hennessy	Team: Squad #12	CCRB Case #: 202002792	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input checked="" type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 04/11/2020 2:00 AM	Location of Incident: In front of of § 87(2)(b)	18 Mo. SOL 5/4/2022	Precinct: 42		
Date/Time CV Reported Sat, 04/11/2020 2:46 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 04/17/2020 11:32 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POF Merita Hoxha	11713	955988	042 PCT
2. POM Dennis Vargas	07471	957245	042 PCT
3. POM Anthony Alvino	04731	961613	042 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Lewellyn Alvarez	20035	949996	042 PCT
2. POM Imran Alli	10940	955709	042 PCT
3. POM Marquise Walcott	03339	961435	042 PCT
4. POM Jarrett Dill	17550	940094	042 PCT
5. SGT Joseph Rowe	05162	955421	042 PCT

Officer(s)	Allegation	Investigator Recommendation
A . POM Dennis Vargas	Abuse: Police Officer Dennis Vargas stopped § 87(2)(b)	§ 87(2)(b)
B . POF Merita Hoxha	Abuse: Police Officer Merita Hoxha stopped § 87(2)(b)	§ 87(2)(b)
C . POM Anthony Alvino	Abuse: Police Officer Anthony Alvino stopped § 87(2)(b)	§ 87(2)(b)
D . POM Dennis Vargas	Abuse: Police Officer Dennis Vargas refused to provide his name to § 87(2)(b)	§ 87(2)(b)
E . POM Dennis Vargas	Abuse: Police Officer Dennis Vargas frisked § 87(2)(b)	§ 87(2)(b)
F . POM Dennis Vargas	Abuse: Police Officer Dennis Vargas searched § 87(2)(b)	§ 87(2)(b)
G . POM Anthony Alvino	Force: Police Officer Anthony Alvino used a chokehold against § 87(2)(b)	§ 87(2)(b)
H . POM Anthony Alvino	Force: Police Officer Anthony Alvino restricted § 87(2)(b) breathing.	§ 87(2)(b)
I . POM Anthony Alvino	Discourtesy: Police Officer Anthony Alvino gestured discourteously toward § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
J . POM Dennis Vargas	Abuse: Police Officer Dennis Vargas failed to provide § 87(2)(b) with a business card.	
K . POF Merita Hoxha	Abuse: Police Officer Merita Hoxha failed to provide § 87(2)(b) with a business card.	
L . POM Anthony Alvino	Abuse: Police Officer Anthony Alvino failed to provide § 87(2)(b) with a business card.	
M . POM Anthony Alvino	Untruthful Stmt.: On December 2, 2020, Police Officer Anthony Alvino provided a misleading official statement to the CCRB.	
N . POF Merita Hoxha	Untruthful Stmt.: On January 21, 2021, Police Officer Merita Hoxha provided a misleading official statement to the CCRB.	
O . POM Dennis Vargas	Untruthful Stmt.: On September 22, 2021, Police Officer Dennis Vargas provided a misleading official statement to the CCRB.	
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		

## Case Summary

On April 11, 2020, § 87(2)(b) filed this complaint by phone with IAB, generating IAB log 2020-10276. The CCRB received the complaint on April 15, 2021.

On April 11, 2020, at 2:33 AM, § 87(2)(b) § 87(2)(b) and § 87(2)(b) stood outside § 87(2)(b) in the Bronx. An unmarked blue sedan stopped near the group. Officer Dennis Vargas, Officer Anthony Alvino and Officer Merita Hoxha approached the group.

Officer Vargas, Officer Alvino, and Officer Hoxha stopped § 87(2)(b) (**Allegation A: Abuse of Authority, § 87(2)(g)**) (**Allegation B: Abuse of Authority, § 87(2)(g)**) (**Allegation C: Abuse of Authority, § 87(2)(g)**) § 87(2)(b) asked for an Officer Vargas's name and precinct. Officer Vargas did not respond to this question (**Allegation D: Abuse of Authority, § 87(2)(g)**) Officer Vargas asked § 87(2)(b) to put his hands up. Officer Vargas patted down § 87(2)(b) body (**Allegation E: Abuse of Authority, § 87(2)(g)**) and reached into § 87(2)(b) pockets (**Allegation F: Abuse of Authority, § 87(2)(g)**) Officer Alvino grabbed the front of § 87(2)(b) neck with his right hand and exerted pressure with his hand (**Allegation G: Force, § 87(2)(g)**) § 87(2)(b) had difficulty breathing (**Allegation H: Force, § 87(2)(g)**) As soon as Officer Alvino released § 87(2)(b) neck, all three officers returned to their vehicle. The officers drove away, and Officer Alvino raised his middle finger at § 87(2)(b) (**Allegation I: Discourtesy, § 87(2)(g)**) Officer Vargas, Officer Alvino and Officer Hoxha failed to offer § 87(2)(b) or § 87(2)(b) a business card (**Allegation J: Abuse of Authority, § 87(2)(g)**) (**Allegation K: Abuse of Authority, § 87(2)(g)**) (**Allegation L: Abuse of Authority, § 87(2)(g)**) No arrests were made and no summonses were issued.

On December 2, 2020, Officer Alvino provided a misleading official statement to the CCRB (**Allegation M: Untruthful Statement, § 87(2)(g)**) On January 22, 2021, Officer Hoxha provided a misleading official statement to the CCRB (**Allegation N: Untruthful Statement, § 87(2)(g)**) On September 22, 2021, Officer Vargas provided a misleading official statement to the CCRB (**Allegation O: Untruthful Statement, § 87(2)(g)**)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

No video evidence was obtained during the course of the investigation.

The Internal Affairs Bureau investigated a concurrent investigation into allegations of Force - Physical Force, Force - Struck Against Object, Discourtesy - Gesture, Profiling - Race / Color / Ethnicity / Nationality, Use of Prohibited Act, Force - Chokehold, and Memo Book - Incomplete / Improper. The CCRB was able to obtain the case file for the concurrent IAB investigation (BR27). The IAB casefile notes that because § 87(2)(b) did not provide them with a statement and because IAB was unable to locate any video evidence, the Force allegations were closed as unsubstantiated. Because the officers denied that they ever stopped anyone based upon race, the Profiling allegation was closed as unsubstantiated. The Memo Book allegation was generated in connection with

multiple vehicle stops that occurred prior to the incident under investigation. A review of body-worn camera footage indicated that several vehicles were searched after the odor of marijuana was detected, but none of the searches or the reasons for the searches were documented in the memo books. § 87(2)(g), § 87(4-b)

### Findings and Recommendations

**Allegation (A) Abuse of Authority: Police Officer Dennis Vargas stopped § 87(2)(b)**  
**Allegation (B) Abuse of Authority: Police Officer Merita Hoxha stopped § 87(2)(b)**  
**Allegation (C) Abuse of Authority: Police Officer Anthony Alvino stopped § 87(2)(b)**  
**Allegation (D) Abuse of Authority: Police Officer Dennis Vargas refused to provide his name to § 87(2)(b)**  
**Allegation (E) Abuse of Authority: Police Officer Dennis Vargas frisked § 87(2)(b)**  
**Allegation (F) Abuse of Authority: Police Officer Dennis Vargas searched § 87(2)(b)**  
**Allegation (G) Force: Police Officer Anthony Alvino used a chokehold against § 87(2)(b)**  
**Allegation (H) Force: Police Officer Anthony Alvino restricted § 87(2)(b) breathing.**  
**Allegation (I) Discourtesy: Police Officer Anthony Alvino gestured discourteously toward § 87(2)(b)**  
**Allegation (J) Abuse of Authority: Police Officer Dennis Vargas failed to provide § 87(2)(b) with a business card.**  
**Allegation (K) Abuse of Authority: Police Officer Merita Hoxha failed to provide § 87(2)(b) with a business card.**  
**Allegation (L) Abuse of Authority: Police Officer Anthony Alvino failed to provide § 87(2)(b) with a business card.**

§ 87(2)(b) provided a statement to the CCRB via telephone on April 22, 2020 (BR02). On April 11, 2020, at a time he reported as being between 2:00 a.m. and 2:15 a.m., and which the investigation determined was approximately 2:33 a.m., § 87(2)(b) his wife § 87(2)(b) and his brother-in-law § 87(2)(b) stood outside § 87(2)(b) in the Bronx, talking. An unmarked blue Ford sedan stopped near § 87(2)(b). Three officers exited the vehicle. One officer was described as a uniformed female who was either white or Hispanic, 5'6"-5'7" tall, with a slim build and black hair. The second officer was described as a uniformed Hispanic male with a muscular build, 5'11" tall, wearing a beanie that said NYPD, in his late 20s or early 30s. The third officer was described as a uniformed male, Hispanic or white, 5'8"-5'9" tall, with an average build, a beanie that said NYPD, and in his late 20s-early 30s. These officers were identified by the investigation as Officer Hoxha, Officer Vargas and Officer Alvino, respectively. Officer Hoxha, Officer Vargas and Officer Alvino exited the vehicle. All three officers approached the § 87(2)(b) and § 87(2)(b). Officer Vargas walked up to § 87(2)(b) and asked how everything was going. Officer Vargas asked § 87(2)(b) if he had any weapons on him or anything that could stick him. § 87(2)(b) asked Officer Vargas for his name and precinct. Officer Vargas did not respond to this question. § 87(2)(b) stated he did not have any weapons. Officer Vargas asked § 87(2)(b) to put his hands up. Officer Vargas patted down § 87(2)(b) body, and reached into § 87(2)(b) pockets. Officer Alvino, who stood approximately two feet away from § 87(2)(b) grabbed the front of § 87(2)(b) neck with his right hand and exerted pressure with his hand. § 87(2)(b) had difficulty breathing. Officer Alvino exerted pressure for ten to fifteen seconds, then stopped. As soon as Officer Alvino released § 87(2)(b) neck, all three officers returned to their vehicle. The officers drove away, and Officer Alvino raised his middle finger at § 87(2)(b).

The investigation was unable to obtain a statement from § 87(2)(b) or § 87(2)(b).

Officer Alvino provided testimony to the CCRB on December 2, 2020 (BR06). On April 11, 2020, Officer Alvino did not recall traveling to § 87(2)(b) in the Bronx at any point. Officer Alvino, Officer Hoxha and Officer Vargas were travelling in an unmarked police vehicle with Vehicle number 283. Officer Alvino did not recall interacting with any group of civilians matching the description of the civilians involved in this complaint. Officer Alvino did not recall conducting searches or frisks of any group of two civilian males and one civilian female. Officer Alvino did not recall using any physical force towards any civilians on the date of the incident. Officer Alvino did not recall placing any part of his body on any civilian's neck or exerting any pressure on any civilian's neck. Officer Alvino did not recall giving the middle finger to any civilian or observing his fellow officers do so. Officer Alvino did not recall observing Officer Vargas or Officer Hoxha use force against any civilian or frisk or search any civilians fitting the description of the alleged victim during this incident. Officer Alvino stated that he was wearing street plainclothes on the date of the incident.

Officer Alvino's memo book from the date of the incident contains five entries regarding car stops between 1:30 a.m. and 2:20 a.m. that occurred within two miles of the incident location. Officer Alvino's next memo book entry is at 3:20 a.m. (BR16). None of the entries were in regards to this incident.

Officer Alvino provided his pedigree information to the CCRB on December 2, 2020 (BR16). Officer Alvino listed himself as being in uniform on the date of his incident. Officer Alvino was 25 years old on the date of this incident. Officer Alvino is a white male, is 5'7" tall, weighs 190lbs, has black hair and brown eyes.

Officer Hoxha provided testimony to the CCRB on January 22, 2021 (BR07). On the date of incident, Officer Hoxha and her team utilized an unmarked vehicle. Officer Hoxha informed the investigation that she was not in the vicinity of § 87(2)(b) in the Bronx, and stated that at the time of incident she was conducting a car stop at Melrose Avenue and East 163<sup>rd</sup> Street in the Bronx. The undersigned investigator provided Officer Hoxha with details of the complaint, namely that three civilians standing outside of the incident location were stopped by three officers who approached them and had a physical interaction with a male civilian. Officer Hoxha stated that she had no recollection of any such incident, and she stated that on April 11, 2020, neither Officer Hoxha nor any officer on her team made physical contact with any civilian's neck. She stated that on the date of incident between 1:30 a.m. and 3:00 a.m., each time Officer Hoxha took action, she activated her body-worn camera. In this time frame, Officer Hoxha did not extend her middle finger directed towards any civilian or observe other members of her team take this action. Officer Hoxha did not recall approaching any groups of people not in vehicles on the night of the incident. Officer Hoxha stated that she was dressed in uniform on the date of the incident.

Officer Hoxha's memo book from the date of the incident contains five entries, identical to Officer Alvino's, regarding car stops between 1:30 a.m. and 2:20 a.m. that occurred within two miles of the incident location (BR08). Officer Hoxha's next memo book entry is at 3:20 a.m. Officer Hoxha has no entry regarding the incident at § 87(2)(b).

Officer Hoxha provided her pedigree information to the CCRB on January 22, 2021 (BR32). Officer Hoxha listed herself as being in plainclothes on the date of the incident. Officer Hoxha was 33 years old on the date of this incident. Officer Hoxha is a white female, is 5'6" tall, weighs 120 pounds, has brown hair and brown eyes.

Officer Vargas provided testimony to the CCRB on September 22, 2021 (BR18). Officer Vargas stated that on the date of incident he and his team utilized an unmarked vehicle assigned Vehicle #

283. He worked in uniform on the date of incident. Officer Vargas did not know if he was on Vyse Avenue at any point during his tour. Officer Vargas did not remember if he encountered two male pedestrians and one female pedestrian while on tour on the date of the incident. Officer Vargas did not remember if he conducted any stops of pedestrians on the date of the incident, but if he or his partners did then it would be noted in the recorder's memo book. Officer Vargas was the vehicle operator on the date of the incident so he would not have noted this. Officer Vargas stated that he did not recall stopping an individual named § 87(2)(b) nor did he recognize the name § 87(2)(b). Officer Vargas stated that he did not recall refusing to provide his name to § 87(2)(b). Officer Vargas stated that he did not recall if he or any other officer frisked any civilians on the date of incident. Officer Vargas stated that he did not recall if he or any other officer searched § 87(2)(b). Officer Vargas stated that he did not recall if he or any other officer used a chokehold against § 87(2)(b). Officer Vargas stated that he did not recall if he or any other officer restricted § 87(2)(b) breathing. Officer Vargas stated that he did not recall if he or any other officer gestured with a middle finger towards § 87(2)(b). Officer Vargas stated that he did not recall if he or any other officer failed to provide § 87(2)(b) with a business card.

Officer Vargas's memo book from the date of the incident contains no entries related to this incident (BR08).

Officer Vargas provided his pedigree information to the CCRB on September 22, 2021 (BR33). Officer Vargas listed himself as being in uniform on the date of the incident. Officer Vargas was 30 years old on the date of the incident. Officer Vargas is a Hispanic male, is 5'10" tall, weighs 200 pounds, is bald, and has brown eyes.

In IAB log #§ 87(2)(b) Vehicle 283 was identified as an unmarked blue Ford Fusion (BR21).

A BWC footage request for Officers Alvino, Hoxha and Vargas from the date of the incident returned negative results (BR05).

A Reznick request for the case file associated with IAB case # § 87(2)(b) was received by the investigation (BR27). The request contains AVL search results for Vehicle 283, which Officer Alvino and Officer Vargas stated that they utilized on the date of the incident (BR28). The results show that Vehicle 283 was in the vicinity of § 87(2)(b) the incident location, for approximately three minutes from 2:33:09 a.m. until 2:36:08 a.m. on April 11, 2020. Additionally, the AVL search results indicate that Vehicle 283 stopped in the vicinity of § 87(2)(b) for approximately three minutes after travelling 0.427 miles in 2 minutes 16 seconds.

§ 87(2)(b) alleged that this incident occurred at § 87(2)(b) between approximately 2:00 AM and 2:15 AM. The AVL search results show that Vehicle 283 was in the vicinity of Vyse Avenue between 2:33 AM and 2:36 AM. § 87(2)(b) alleged that the team of officers that he interacted with on the date of the incident was composed of two male officers and one female officer. The anti-crime team identified by the investigation was composed of two male officers (Officer Vargas and Officer Alvino) and a female officer (Officer Hoxha). The pedigree information provided by § 87(2)(b) regarding the officers that he interacted with on the date of the incident is largely consistent with the pedigree information provided by Officer Hoxha, Officer Alvino and Officer Vargas. § 87(2)(b) alleged that all three officers exited an unmarked blue Ford sedan. IAB log #§ 87(2)(b) states that Vehicle 283 was an unmarked blue Ford Fusion, a type of sedan (BR21). Given the pedigree information provided by § 87(2)(b) and the positive AVL results for the incident location and incident time, the investigation has concluded that on the date of incident Officers Alvino, Hoxha and Vargas did exit their vehicle and did interact with § 87(2)(b) at § 87(2)(b).



§ 87(2)(g)

**Allegation (M) Untruthful Statement: On December 2, 2020, Police Officer Anthony Alvino provided a misleading official statement to the CCRB.**

**Allegation (N) Untruthful Statement: On January 21, 2021, Police Officer Merita Hoxha provided a misleading official statement to the CCRB.**

**Allegation (O) Untruthful Statement: On September 22, 2021, Police Officer Dennis Vargas provided a misleading official statement to the CCRB.**

As discussed in Allegation A through Allegation L, the investigation concluded that § 87(2)(b) did interact with Officer Hoxha, Officer Vargas and Officer Alvino on the incident date at the incident location due to AVL documentation obtained from a concurrent IAB investigation confirming that the officers' vehicle was present at the incident location at the time of incident.

Officer Alvino provided testimony to the CCRB on December 2, 2020 (BR06) in which he stated that he did not recall the incident. Officer Alvino was interviewed by the CCRB for a second time regarding this case on November 12, 2021 (BR29). Officer Alvino was shown AVL search results from the date of the incident that show the location, cardinal direction, and speed in MPH that Vehicle 283 travelled on the date of incident. Officer Alvino's attention was directed to entries at 2:33:09 a.m. and 2:36:08 a.m. at § 87(2)(b) at Officer Alvino was reminded of the incident location, which was § 87(2)(b). After reviewing the AVL results, Officer Alvino stated that he did not wish to amend his previous statement in any way. Officer Alvino was not able to account for what occurred in the three-minute gap identified in the AVL search results. Officer Alvino stated that his viewing of the document did not in any manner change his memory of what took place on the date of the incident.

Officer Hoxha provided testimony to the CCRB on January 22, 2021 (BR07) in which she stated that she did not recall this incident. Officer Hoxha was interviewed by the CCRB for a second time regarding this case on November 24, 2021 (BR31). Officer Hoxha was shown AVL search results from the date of the incident for Vehicle 283, specifically an entry at 2:33:09 a.m., at § 87(2)(b) and the next entry at § 87(2)(b) at 2:36:08 a.m. Officer Hoxha was informed that the incident location was § 87(2)(b) and that incident time was reported as 2:00 a.m. to 2:15 a.m. After reviewing this document, Officer Hoxha stated that did not wish to amend her previous statement in any way. Officer Hoxha was not able to account for the 2:59 minutes during which Vehicle 283 was at § 87(2)(b).

Officer Vargas provided testimony to the CCRB on September 22, 2021 (BR18) in which he stated that he did not recall the incident. Officer Vargas was interviewed by the CCRB for a second time regarding this case on November 16, 2021 (BR30). Officer Vargas was shown AVL search results for Vehicle 283 from the date of the incident. Officer Vargas had never seen AVL search results before. The interviewing investigator explained to Officer Vargas that the document is generated by the NYPD for a specific vehicle number for a date and time, and that the results capture the location, sector, speed, and course in terms of cardinal directions. Officer Vargas's attention was directed to the AVL results for Vehicle 283 on April 11, 2020, at 2:33:09 a.m., at § 87(2)(b), near the incident location at § 87(2)(b). Officer Vargas was asked if, having seen this document, he wished to amend his previous statement in any way. Officer Vargas stated that he

did not wish to amend his previous statement in any way. Officer Vargas stated that viewing the AVL results did not refresh his recollection of the incident.

Patrol Guide Procedure 203-08 (BR 37) prohibits officers from making misleading statements in connection with an official investigation. The procedure defines a misleading statement as “a statement that is intended to misdirect the fact finder, and materially alter the narrative by:

- a. Intentionally omitting a material fact or facts,
- b. Making repeated claims of “I do not remember” or “I do not know” when a reasonable person under similar circumstances would recall, or have been aware of, such material facts, or
- c. Altering and / or changing a member’s prior statement or account when a member of the service is confronted with independent evidence indicating that an event did not occur as initially described, will generally be considered a misleading statement.”

A material fact is defined as being “essential to the determination of the issue and the suppression, omission, or alteration of such fact would reasonably result in a different decision or outcome.”

Officers Hoxha, Vargas and Alvino all stated that they did not recall interacting with a group of civilians matching the description of § 87(2)(b) and § 87(2)(b) on the date of the incident. They persisted in their claims about their lack of recollection even after being shown AVL search results that showed that they were present at the incident location near the alleged time of incident. § 87(2)(g)

Given that the content of the officers’ tour consisted primarily, as per their memo books, of car stops in the vicinity of the 42<sup>nd</sup> Precinct, officers exiting their vehicle and interacting verbally with pedestrians not involved in a car stop would constitute a significant deviation from the rest of their tour. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g), § 87(4-b)



§ 87(2)(g), § 87(4-b)

[REDACTED]

[REDACTED]

§ 87(2)(g), § 87(4-b)

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

§ 87(2)(g), § 87(4-b)

**Civilian and Officer CCRB Histories**

- § 87(2)(b)

**Mediation, Civil, and Criminal Histories**

- This complaint was not suitable for mediation.
- As of June 2, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint (BR17).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 12

Investigator: Joseph Hennessy Joseph Hennessy December 1, 2021  
Signature Print Title & Name Date

Squad Leader: Carlmais Johnson IM Carlmais Johnson March 7, 2022  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date